

116TH CONGRESS  
2D SESSION

# H. R. 9062

To amend the Immigration and Nationality Act to modify provisions relating to assistance by States, and political subdivision of States, in the enforcement of Federal immigration laws, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 31, 2020

Mr. KING of Iowa introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to modify provisions relating to assistance by States, and political subdivision of States, in the enforcement of Federal immigration laws, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*

2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “No Sanctuary for

5       Criminals Act”.

1   **SEC. 2. STATE NONCOMPLIANCE WITH ENFORCEMENT OF**  
2                   **IMMIGRATION LAW.**

3       (a) IN GENERAL.—Section 642 of the Illegal Immigra-  
4      tion Reform and Immigrant Responsibility Act of 1996  
5      (8 U.S.C. 1373) is amended—

6                  (1) by striking subsection (a) and inserting the  
7      following:

8                  “(a) IN GENERAL.—Notwithstanding any other pro-  
9      vision of Federal, State, or local law, no Federal, State,  
10     or local government entity, and no individual, may prohibit  
11     or in any way restrict, a Federal, State, or local govern-  
12     ment entity, official, or other personnel from complying  
13     with the immigration laws (as defined in section  
14     101(a)(17) of the Immigration and Nationality Act (8  
15     U.S.C. 1101(a)(17))), or from assisting or cooperating  
16     with Federal law enforcement entities, officials, or other  
17     personnel regarding the enforcement of these laws.”;

18                  (2) by striking subsection (b) and inserting the  
19      following:

20                  “(b) LAW ENFORCEMENT ACTIVITIES.—Notwith-  
21      standing any other provision of Federal, State, or local  
22      law, no Federal, State, or local government entity, and no  
23      individual, may prohibit, or in any way restrict, a Federal,  
24      State, or local government entity, official, or other per-  
25      sonnel from undertaking any of the following law enforce-  
26      ment activities as they relate to information regarding the

1 citizenship or immigration status, lawful or unlawful, the  
2 inadmissibility or deportability, or the custody status, of  
3 any individual:

4           “(1) Making inquiries to any individual in order  
5           to obtain such information regarding such individual  
6           or any other individuals.

7           “(2) Notifying the Federal Government regard-  
8           ing the presence of individuals who are encountered  
9           by law enforcement officials or other personnel of a  
10          State or political subdivision of a State.

11          “(3) Complying with requests for such informa-  
12          tion from Federal law enforcement entities, officials,  
13          or other personnel.”;

14          (3) in subsection (c), by striking “Immigration  
15          and Naturalization Service” and inserting “Depart-  
16          ment of Homeland Security”; and

17          (4) by adding at the end the following:

18          “(d) COMPLIANCE.—

19          “(1) ELIGIBILITY FOR CERTAIN GRANT PRO-  
20          GRAMS.—A State, or a political subdivision of a  
21          State, that is found not to be in compliance with  
22          subsection (a) or (b) shall not be eligible to receive—

23           “(A) any of the funds that would otherwise  
24           be allocated to the State or political subdivision  
25           under section 241(i) of the Immigration and

1           Nationality Act (8 U.S.C. 1231(i)), the ‘Cops  
2           on the Beat’ program under part Q of title I of  
3           the Omnibus Crime Control and Safe Streets  
4           Act of 1968 (42 U.S.C. 3796dd et seq.), or the  
5           Edward Byrne Memorial Justice Assistance  
6           Grant Program under subpart 1 of part E of  
7           title I of the Omnibus Crime Control and Safe  
8           Streets Act of 1968 (42 U.S.C. 3750 et seq.);  
9           or

10           “(B) any other grant administered by the  
11           Department of Justice or the Department of  
12           Homeland Security that is substantially related  
13           to law enforcement, terrorism, national security,  
14           immigration, or naturalization.

15           “(2) TRANSFER OF CUSTODY OF ALIENS PEND-  
16           ING REMOVAL PROCEEDINGS.—The Secretary, at the  
17           Secretary’s discretion, may decline to transfer an  
18           alien in the custody of the Department of Homeland  
19           Security to a State or political subdivision of a State  
20           found not to be in compliance with subsection (a) or  
21           (b), regardless of whether the State or political sub-  
22           division of the State has issued a writ or warrant.

23           “(3) TRANSFER OF CUSTODY OF CERTAIN  
24           ALIENS PROHIBITED.—The Secretary shall not  
25           transfer an alien with a final order of removal pur-

1 suant to paragraph (1)(A) or (5) of section 241(a)  
2 of the Immigration and Nationality Act (8 U.S.C.  
3 1231(a)) to a State or a political subdivision of a  
4 State that is found not to be in compliance with sub-  
5 section (a) or (b).

6       “(4) ANNUAL DETERMINATION.—The Secretary  
7 shall determine for each calendar year which States  
8 or political subdivision of States are not in compli-  
9 ance with subsection (a) or (b) and shall report such  
10 determinations to Congress by March 1 of each suc-  
11 ceeding calendar year.

12       “(5) REPORTS.—The Secretary of Homeland  
13 Security shall issue a report concerning the compli-  
14 ance with subsections (a) and (b) of any particular  
15 State or political subdivision of a State at the re-  
16 quest of the House or the Senate Judiciary Com-  
17 mittee. Any jurisdiction that is found not to be in  
18 compliance shall be ineligible to receive Federal fi-  
19 nancial assistance as provided in paragraph (1) for  
20 a minimum period of 1 year, and shall only become  
21 eligible again after the Secretary of Homeland Secu-  
22 rity certifies that the jurisdiction has come into com-  
23 pliance.

24       “(6) REALLOCATION.—Any funds that are not  
25 allocated to a State or to a political subdivision of

1       a State due to the failure of the State or of the po-  
2       litical subdivision of the State to comply with sub-  
3       section (a) or (b) shall be reallocated to States or to  
4       political subdivisions of States that comply with both  
5       such subsections.”.

6       (b) EFFECTIVE DATE.—The amendments made by  
7       this section shall take effect on the date of the enactment  
8       of this Act, except that subsection (d) of section 642 of  
9       the Illegal Immigration Reform and Immigrant Responsi-  
10      bility Act of 1996 (8 U.S.C. 1373), as added by this sec-  
11      tion, shall apply only to prohibited acts committed on or  
12      after the date of the enactment of this Act.

13 **SEC. 3. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

14       (a) IN GENERAL.—Section 287(d) of the Immigra-  
15      tion and Nationality Act (8 U.S.C. 1357(d)) is amended  
16      to read as follows:

17       “(d) DETAINER OF INADMISSIBLE OR DEPORTABLE  
18      ALIENS.—

19       “(1) IN GENERAL.—In the case of an individual  
20      who is arrested by any Federal, State, or local law  
21      enforcement official or other personnel for the al-  
22      leged violation of any criminal or motor vehicle law,  
23      the Secretary may issue a detainer regarding the in-  
24      dividual to any Federal, State, or local law enforce-  
25      ment entity, official, or other personnel if the Sec-

1       retary has probable cause to believe that the individual  
2       is an inadmissible or deportable alien.

3           “(2) PROBABLE CAUSE.—Probable cause is  
4       deemed to be established if—

5               “(A) the individual who is the subject of  
6       the detainer matches, pursuant to biometric  
7       confirmation or other Federal database records,  
8       the identity of an alien who the Secretary has  
9       reasonable grounds to believe to be inadmissible  
10      or deportable;

11              “(B) the individual who is the subject of  
12       the detainer is the subject of ongoing removal  
13       proceedings, including matters where a charging  
14       document has already been served;

15              “(C) the individual who is the subject of  
16       the detainer has previously been ordered removed  
17       from the United States and such an order is administratively final;

19              “(D) the individual who is the subject of  
20       the detainer has made voluntary statements or  
21       provided reliable evidence that indicate that  
22       they are an inadmissible or deportable alien; or

23              “(E) the Secretary otherwise has reasonable  
24       grounds to believe that the individual who

1           is the subject of the detainer is an inadmissible  
2           or deportable alien.

3           “(3) TRANSFER OF CUSTODY.—If the Federal,  
4           State, or local law enforcement entity, official, or  
5           other personnel to whom a detainer is issued com-  
6           plies with the detainer and detains for purposes of  
7           transfer of custody to the Department of Homeland  
8           Security the individual who is the subject of the de-  
9           tainer, the Department may take custody of the in-  
10          dividual within 48 hours (excluding weekends and  
11          holidays), but in no instance be compelled to hold  
12          the subject more than 96 hours, but may hold the  
13          subject up to 30 days, following.”.

14          (b) IMMUNITY.—

15           (1) IN GENERAL.—A State or a political sub-  
16          division of a State (and the officials and personnel  
17          of the State or subdivision acting in their official ca-  
18          pacities), and a nongovernmental entity (and its per-  
19          sonnel) contracted by the State or political subdivi-  
20          sion for the purpose of providing detention, acting in  
21          compliance with a Department of Homeland Secu-  
22          rity detainer issued pursuant to this section who  
23          temporarily holds an alien in its custody pursuant to  
24          the terms of a detainer so that the alien may be  
25          taken into the custody of the Department of Home-

1 land Security, shall be considered to be acting under  
2 color of Federal authority for purposes of deter-  
3 mining their liability and shall be held harmless for  
4 their compliance with the detainer in any suit seek-  
5 ing any punitive, compensatory, or other monetary  
6 damages.

7                   (2) FEDERAL GOVERNMENT AS DEFENDANT.—  
8 In any civil action arising out of the compliance with  
9 a Department of Homeland Security detainer by a  
10 State or a political subdivision of a State (and the  
11 officials and personnel of the State or subdivision  
12 acting in their official capacities), or a nongovern-  
13 mental entity (and its personnel) contracted by the  
14 State or political subdivision for the purpose of pro-  
15 viding detention, the United States Government  
16 shall be the proper party named as the defendant in  
17 the suit in regard to the detention resulting from  
18 compliance with the detainer.

19                   (3) BAD FAITH EXCEPTION.—Paragraphs (1)  
20 and (2) shall not apply to any mistreatment of an  
21 individual by a State or a political subdivision of a  
22 State (and the officials and personnel of the State  
23 or subdivision acting in their official capacities), or  
24 a nongovernmental entity (and its personnel) con-

1           tracted by the State or political subdivision for the  
2           purpose of providing detention.

3 **SEC. 4. PRIVATE RIGHT OF ACTION.**

4           (a) CAUSE OF ACTION.—Any individual, or a spouse,  
5           parent, or child of that individual (if the individual is de-  
6           ceased), who is the victim of a murder, rape, or any felony,  
7           as defined by the State, for which an alien (as defined  
8           in section 101(a)(3) of the Immigration and Nationality  
9           Act (8 U.S.C. 1101(a)(3))) has been convicted and sen-  
10          tenced to a term of imprisonment of at least 1 year, may  
11          bring an action against a State or political subdivision of  
12          a State in the appropriate Federal or State court—

13                 (1) if the State or political subdivision released  
14                 the alien from custody prior to the commission of  
15                 such crime, and had knowledge that the alien was  
16                 unlawfully present in the United States; or

17                 (2) the crime was a consequence of the State or  
18                 political subdivision declining to honor a detainer or  
19                 warrant issued pursuant to section 287(d)(1) of the  
20                 Immigration and Nationality Act (8 U.S.C.  
21                 1357(d)(1)).

22                 (b) APPLICATION.—Subject to subsection (c), sub-  
23                 section (a) shall apply without regard to whether the crime  
24                 was committed before, on, or after the date of the enact-  
25                 ment of this Act.

## 1       (c) LIMITATION ON BRINGING ACTION.—

2                 (1) IN GENERAL.—An action brought under  
3             this section may not be brought later than 10 years  
4             following the occurrence of the crime, or death of a  
5             person as a result of such crime, whichever occurs  
6             later.

7                 (2) EXCEPTION.—Paragraph (1) shall not  
8             apply to an action brought under this section based  
9             on a crime committed before the date of the enact-  
10           ment of this Act.

11       (d) ATTORNEY'S FEES AND OTHER COSTS.—In any  
12      action or proceeding under this section the court shall  
13      allow a prevailing plaintiff a reasonable attorneys' fee as  
14      part of the costs, and include expert fees as part of the  
15      attorneys' fee.

16       **SEC. 5. MANDATORY DETENTION OF CERTAIN ALIENS**  
17                 **CHARGED WITH A CRIME RESULTING IN**  
18                 **DEATH OR SERIOUS BODILY INJURY.**

19       Section 236(c) of the Immigration and Nationality  
20      Act (8 U.S.C. 1226(c)) is amended—

21                 (1) in paragraph (1)—

22                         (A) in subparagraphs (A) and (B), by  
23             striking the comma at the end of each subpara-  
24             graph and inserting a semicolon;

25                         (B) in subparagraph (C)—

(i) by striking “sentence” and inserting “sentenced”; and

5 (C) in subparagraph (D), by striking the  
6 comma at the end and inserting “; or”; and

9                       “(E)(i)(I) was not inspected and admitted  
10                      into the United States;

11                   “(II) held a nonimmigrant visa (or other  
12                   documentation authorizing admission into the  
13                   United States as a nonimmigrant) that has  
14                   been revoked under section 221(i); or

15                   “(III)        is        described        in        section  
16                   237(a)(1)(C)(i); and

17                 “(ii) has been charged by a prosecuting au-  
18                 thority in the United States with any crime  
19                 that resulted in the death or serious bodily in-  
20                 jury (as defined in section 1365(h)(3) of title  
21                 18, United States Code) of another person,”;  
22                 and

(2) by adding at the end the following:

24                 “(3) NOTIFICATION REQUIREMENT.—Upon en-  
25                 countering or gaining knowledge of an alien de-

1 scribed in paragraph (1), the Assistant Secretary of  
2 Homeland Security for Immigration and Customs  
3 Enforcement shall make reasonable efforts—

4 “(A) to obtain information from law en-  
5 forcement agencies and from other available  
6 sources regarding the identity of any victims of  
7 the crimes for which such alien was charged or  
8 convicted; and

9 “(B) to provide the victim or, if the victim  
10 is deceased, a parent, guardian, spouse, or clos-  
11 est living relative of such victim, with informa-  
12 tion, on a timely and ongoing basis, including—

13 “(i) the alien’s full name, aliases, date  
14 of birth, and country of nationality;

15 “(ii) the alien’s immigration status  
16 and criminal history;

17 “(iii) the alien’s custody status and  
18 any changes related to the alien’s custody;  
19 and

20 “(iv) a description of any efforts by  
21 the United States Government to remove  
22 the alien from the United States.”.

23 **SEC. 6. SAVINGS PROVISION.**

24 Nothing in this Act, or the amendments made by this  
25 Act, may be construed to limit the rights of crime victims

- 1 under any other provision of law, including section 3771
- 2 of title 18, United States Code.

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